

**Comments and Recommendations on the
Proposed Revised Administrative Rules for
Special Education**

**Submitted by the
Special Education Advisory Committee**

August 1, 2001

TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY	2
SECTION 1 - INTRODUCTION	
1.1 Role and Membership of the SEAC.....	7
1.2 SEAC Guiding Principles for Evaluation of the Proposed Rules	8
1.3 Process for Responding to the Proposed Revised Rules.....	8
1.4 Form of Responses.....	8
SECTION 2 - SEAC RECOMMENDATIONS	
2.1 Instructional Ratio.....	9
2.2 State Rules vs. ISD Plan	9
2.3 State Requirements for Categorical/Class Size.....	10
2.4 Age Span	10
2.5 Definitions of Eligibility	11
2.6 Parental Input	11
2.7 ISD Plan Approval Process/Parent Involvement	12
2.8 Maximum Potential.....	12
2.9 Three-year Reevaluation/MET	12
2.10 Definition of the MET/Parent Membership	13
2.11 Teacher Consultant	13
2.12 Qualifications of Instructional Aides	13
2.13 Transition Services.....	14
2.14 Work-Study Coordinator Position and Services	15
2.15 Rules Package - All-in-One Document.....	15
2.16 Time Lines	16
2.17 Measure of Time	16
SECTION 3 - INDEX	
3.1 SEAC Membership	17

EXECUTIVE SUMMARY

The Special Education Advisory Committee (SEAC) exists to provide policy guidance concerning special education and related services for children with disabilities in the state of Michigan. As a federally mandated body, the SEAC has broad representation from across the state which includes parents, providers, advocates, administrators, and consumers. In preparing this recommendation document, the SEAC met as a whole for six full-day sessions. With its diversity, the SEAC's membership had overwhelming (80% or higher) agreement on several of the major issues.

The next few pages summarize the SEAC's guiding principles and recommendations regarding the Proposed Revised Administrative Rules for Special Education in the state of Michigan. The rationale for these recommendations is found in Section 2.

These Comments and Recommendations on the Proposed Revised Administrative Rules for Special Education dated March 5, 2001 are presented in accordance with our role as an advisory body so that the Superintendent of Public Instruction (Superintendent), the State Board of Education (State Board), and the public will have the maximum information possible when determining what action should be taken.

The members of the SEAC developed the following guiding principles for their evaluation of the Proposed Revised Administrative Rules for Special Education. In determining the merit of the proposed rules, the proposed rules must:

- Hold high expectations for all students
- Foster adult independence/self-sufficiency to achieve maximum potential
- Help teachers teach and students learn
- Assure consistency of services across the state of Michigan
- Be based on sound research and best practices
- Support a collaborative approach when seeking what is best for the child
- Be written clearly, easy to understand, and accessible
- Encourage teacher recruitment and retention - foster professional excellence
- Support shared cost between state and federal government in educating students with disabilities
- Create equal opportunities for students with disabilities to access education
- Maintain or improve the quality of services delivered to students

The members of the SEAC make the following recommendations to the Superintendent and State Board with regard to the Proposed Revised Administrative Rules for Special Education. These recommendations are overwhelmingly (80% or higher) supported by a majority of the members of the SEAC unless otherwise noted.

Instructional Ratio\State Rules vs. ISD Plans

The proposed rules for moving some authority from the State to ISDs as well as creating the instructional ratio promotes inequities across the state and will result in a lack of equity and the absence of a continuum of services.

Instructional Ratio: *The SEAC recommends retaining the existing rules describing caseloads and class size. (Rule 340.1832e)*

State Rules vs. ISD Plan: *The SEAC recommends that the State retain the responsibilities of determining definitions for categorical special education programs as well as State caseloads within such programs. (Rule 340.1831 - 340.1835)*

Categorical/Class Size, Age Span and Definitions

The proposed changes in categorical/class size, age span and definitions have potentially too many negative consequences that must be considered. Major areas of concern are educational appropriateness and quality standards, safety and security for students and teachers, and placement of an unreasonable burden on parents at the IEP.

Categorical/Class Size: *The SEAC recommends retaining categorical programs. We also suggest continued effort and research regarding successful inclusionary practices so the categorical programs may not be necessary in the future. (Rules 340.1738 – 340.1758)*

Age Span: *The SEAC recommends retaining the current language until more study is done, public comment is reviewed, stakeholders are queried and the impact of implementation is determined. (Rule 340.1733d)*

Definitions: *The SEAC is divided in its opinion on various eligibility category definitions. Since the definitions drive eligibility and special education programming, we ask the Superintendent to re-examine each individual definition to promote technical accuracy, clarity and current thinking in the field. (Rules 340.1701 - 340.1717)*

Parental Input and Involvement

We acknowledge the value of parental input throughout the educational process. Therefore, it is critical that parents of children receiving special education services are meaningfully included in their child's education and the development of the ISD plan. The SEAC feels that the proposed rules weaken parent input.

Parental Input: *The SEAC recommends maintaining Michigan rules regarding parental input and strengthening them by adding more specific language. (Rules 340.1721 and 1721a)*

ISD Plan Approval Process/Parent Involvement:

The SEAC recommends retaining responsibility for approval of the ISD Plan at the State level.

Maximum Potential

"Maximum potential" is a standard that reflects a philosophical foundation for Michigan's commitment to all children.

The SEAC recommends retaining the language "maximum potential." (Rules 340.1723a)

Three-Year Reevaluation/MET

The Michigan MET process is different than the federal reevaluation process in that it requires an assessment and a report every three years. Streamlining the three-year reevaluation process to better match the federal process would give the maximum professional flexibility. The SEAC feels that this flexibility along with parental involvement are keys to the success of the process.

The SEAC recommends the rescinding of this rule to allow for the streamlining of the three-year reevaluation process with reservations regarding elimination of MET reports/documentation. (Rule 340.1722d)

Definition of the MET/Parent Membership

The SEAC overwhelmingly recommends that parents be members of the MET and part of any decisions or recommendations made by the MET.

Teacher Consultants and Instructional Aides

Teacher consultants and instructional aides in the state of Michigan perform a unique role. They help teachers teach and students learn. An overwhelming majority of the SEAC members expressed strong concerns regarding the elimination of teacher consultants and instructional aides as approved positions.

Teacher Consultants: *The SEAC recommends retaining the current language describing the roles and qualifications of teacher consultants. (Rule 340.1790)*

Instructional Aides: *The SEAC recommends retaining the current rule language defining qualifications for instructional aides. (Rule 340.1794)*

Transition Services/Work Study Coordinator

The current proposals regarding transition plans and services are incomplete without definitions for qualifications of various personnel. To foster transition to adult life, vocational evaluations and training need to be maintained. The Michigan Transition Services Association and the Transition Services Project have invested several months in discussion and research. Their recommendations should be considered in developing this portion of the administrative rules.

Transition Services: *The SEAC recommends retaining the Michigan rules language for vocational evaluations and prevocational training.*

Work-Study Coordinator: *The SEAC recommends retaining the Work-Study Coordinator position as currently written. The SEAC recommends seeking information from stakeholder groups such as the Michigan Transition Services Association and the Transition Services Project, thereby acknowledging their research and programs developed over the past six months. (Rule 340.1799d)*

Rules Package - All In One Document

It is important that all stakeholders be able to obtain and understand the laws and rules which govern the delivery of special education in Michigan. These are presently scattered in many documents, making access difficult and confusing.

The SEAC asks the Superintendent to support and promote the creation of one comprehensive, final document, including: IDEA provisions, FERPA, federal regulations, portions of the Michigan School Code, portions of the State Aid Act, and State application for federal funding with cross-references and organized by federal regulations (IDEA).

Time Lines/Measure of Time

The SEAC recognizes that the current rules package uses three different measures of time when discussing time lines. This can and does lead to confusion. Timelines need to be clearly and succinctly stated, especially when the implementation process involves more than a single step. Time lines need to be reasonable in length.

The SEAC recommends that the Superintendent support clear, complete, and reasonable time lines throughout the document.

The SEAC recommends that one measure of time is used and that measure should be calendar days.

Conclusion - An Invitation to Partnership

As your Special Education Advisory Committee, we are devoted to helping develop public policy that serves the educational needs of Michigan students with disabilities. Creating the future we want for special education depends on building partnerships with organizations so that we can combine our wisdom, talents, aspirations, and energy on behalf of our children.

As a group and individually, the SEAC members have extensive knowledge in a variety of disciplines related to special education. We invite the Superintendent, Board of Education, and others in state government to use the SEAC's expertise as a resource.

SECTION 1 - INTRODUCTION

1.1 Role and Membership of the SEAC

The Special Education Advisory Committee (SEAC) exists to provide policy guidance with respect to special education and related service for children with disabilities in the state of Michigan. It is organized and operates in accordance with the requirements of the federal Individuals with Disabilities Education Act of 1997 (IDEA). Members of the SEAC are appointed by the State Board of Education. Membership includes:

- Parents of children with disabilities
- Persons with disabilities
- Teachers
- Representatives of institutions of higher education that prepare special education and related services personnel (ex-officio members)
- State and local education officials (ex-officio members)
- Administrators of programs for children with disabilities
- Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities (ex-officio members)
- Representatives of private and public charter schools
- At least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities
- Representatives from state juvenile and adult corrections agencies (ex-officio members)

Among its other statutory duties, the SEAC is empowered to:

- Advise the State Superintendent and Board of Education of unmet needs within the state in the education of children with disabilities
- Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities
- Advise the State Superintendent and Board of Education in developing policies relating to the coordination of services for children with disabilities

These Comments and Recommendations on the Proposed Revised Administrative Rules for Special Education proposed on March 5, 2001, are presented in accordance with our role as an advisory body so that the Superintendent, the State Board, and the public will have the maximum information possible in determining what action should be taken with regard to them.

A complete list of current SEAC members and the agencies or organizations they represent will be found in the index to this document.

1.2 Guiding Principles for Evaluation of Proposed Rules

The members of the SEAC developed the following principles to guide their evaluation of the Proposed Revised Administrative Rules for Special Education. The application of these principles underlies the recommendations that are contained later in this document. While there were differences of opinion about substantive issues on specific rule changes, there was general agreement that these principles should be considered in evaluating any proposed rule changes.

- Hold high expectations for all students
- Foster adult independence/self-sufficiency to achieve maximum potential
- Help teachers teach and students learn
- Assure consistency of services across the state of Michigan
- Be based on sound research and best practices
- Support a collaborative approach when seeking what is best for the child
- Be written clearly, easy to understand, and accessible
- Encourage teacher recruitment and retention - foster professional excellence
- Support shared cost between state and federal government in educating students with disabilities
- Create equal opportunities for students with disabilities to access education
- Maintain or improve the quality of services delivered to students

1.3 Process for Responding to Proposed Revised Rules

The Special Education Advisory Committee met in a series of two-day sessions in March, May, and June of 2001 to study and respond to the Proposed Revised Administrative Rules for Special Education. The committee welcomed some of the proposed changes while some raised questions or concerns. Members identified 26 issues that merited comment. The committee also developed a set of recommendations to the Superintendent and the Board of Education for their consideration. The work of these sessions regarding issues and recommendations forms the basis of this response.

1.4 Form of Responses

This response contains both comments and recommendations. As with any representative body, the members of the SEAC engaged in lively discussion during their deliberations and were not always able to reach complete agreement on some issues. Where there were differences of opinion, we have made every effort to reflect those differences in this document.

SECTION 2 - SEAC RECOMMENDATIONS ON PROPOSED REVISED ADMINISTRATIVE RULES FOR SPECIAL EDUCATION

2.1 Instructional Ratio

SEAC Position: An overwhelming majority of the SEAC does not support this proposed change. (Rule 340.1832e)

Rationale: The establishment of the proposed instructional ratios is a concern to the SEAC members for many reasons. There would be variances between ISDs and LEAs across the state, promoting inconsistencies in student/teacher ratios. These ratios would be determined by economic factors due to the waiver process, rather than research/data driven best practices and would not follow any guiding principles, especially related to class size and age span. The proposed formula penalizes both low and high incidence disability categories. It also requires calculations based on data that does not yet exist.

It was also felt that it would be an impossible feat to enlist superintendents of intermediate and local school districts, chairpersons of Parent Advisory Committees (PACs), teacher bargaining units, and chief executives of public school academies to agree to make changes in the instructional ratio. Further, there was not a clear definition of "bargaining units."

Recommendation: **The SEAC recommends retaining the existing rules describing case loads and class size.**

2.2 State Rules vs. ISD Plans

SEAC Position: The SEAC overwhelmingly does not support the proposed rules, which changes the role and function of the ISD Plan. (Rule 340.1831 - 340.1835)

Rationale: The current state rules provide minimal standards that insure a full continuum and quality of services statewide. Uniformity across the state allows parents to anticipate a level of service from one ISD to another. There was overwhelming concern with the effectiveness of the checks and balance system under an ISD plan versus the state rules. It was felt that the proposal would cause inequities in both financial support and programs and services. There was also concern over the lack of required periodic review of the ISD plan.

Recommendation: The SEAC recommends that the State retain the responsibilities of determining definitions for categorical special education programs as well as caseloads within such programs.

2.3 State Requirements for Categoricals/Class Size

SEAC Position: An overwhelming majority of the SEAC does not support the elimination of categorical/class sizes in the proposed rules package.

Rationale: The elimination of categorical/class size is problematic. There is no new model of special education based on best practice. The elimination of the categorical would:

- Eliminate safeguards/minimum standards for student learning such as mandated paraprofessionals and aide support, class size, age span, 230 days for SMI/SXI and caseloads
- Shift responsibility for the specific safeguards/minimum standards to the local ISDs resulting in an inconsistent delivery system throughout the state
- Greatly increase the burden on the participants in the IEP to understand all program variables
- Allow non-endorsed teachers to teach out of their area of expertise
- Reduce the quality of education/services to students based on misalignment of teacher endorsement to student need; and
- Impact the recruitment of special education teachers due to the program inconsistencies throughout the state

Recommendation: The SEAC recommends retaining categorical programs. We also suggest continued effort and research for more successful inclusionary practices so those categories may not be necessary in the future.

2.4 Age Span

SEAC Position: There were strong concerns expressed about the impact of this proposed rule change by an overwhelming majority of the SEAC members.

Rationale: Student impact (behavioral, developmental, social, age appropriate materials/curriculum) will be significantly impacted by increasing age span. If limits are removed, the issue of safety could arise with having preschool students with older/adult population. Teacher recruitment and retention may

become more difficult because of the increase in the age span, teacher responsibilities/prep time will increase due to widely differing developmental and social levels.

Recommendation: **Retain current language until more study is done, public comment is reviewed, stakeholders are queried, and impact of implementation is determined.**

2.5 Definitions of Eligibility

SEAC Position: The SEAC was divided with the majority not supporting the proposed definition of eligibility section as presently written.

Rationale: The definitions section contains numerous, complex, and diverse definitions. There are controversies within the proposed administrative rules package that involve definitions. The definitions impact educational programming, educational outcomes and individual futures. Some of the definitions are technically inaccurate, outdated and do not reflect current thinking in the field.

Recommendation: **Since definitions drive eligibility and special education programming, we ask the Superintendent to re-examine each individual definition to promote technical accuracy, clarity, and current thinking in the field.**

2.6 Parental Input

SEAC Position: An overwhelming majority of the SEAC does not support the lack of parental input as presently presented in the proposed rules. (Rules 340.1721 and 340.1721a)

Rationale: Teachers teach and children learn at their best with strong parental support. Michigan has positive rules for parent involvement. Some of these are enhanced by IDEA, but IDEA is also vague in many areas. Therefore, we feel strongly that a group of PAC members should participate in providing input relating to the proposed rules regarding parental input.

Recommendation: **The SEAC recommends maintaining Michigan rules regarding parental input and strengthening them by adding more specific language to guarantee parental input.**

2.7 ISD Plan Approval Process/Parent Involvement

- SEAC Position:** The SEAC does not support the ISD plan approval process as written in the proposed rules.
- Rationale:** There is no evidence to indicate that the signature of the chairperson of the PAC signifies the active involvement of the PAC in the development and/or agreement of the plan.
- Recommendation:** **The PAC chairperson’s signature should indicate both involvement and agreement with the ISD Plan. More rules explaining PAC involvement in the Plan.**

2.8 Maximum Potential

- SEAC Position:** A majority of the SEAC members want to retain the concept of “maximum potential” in the rules package.
- Rationale:** The rationale for deleting “maximum potential” is that it is addressed as “unique needs” in the IDEA regulations. However, we believe the concept of “maximum potential” raises the bar of expectations for students in special education. By retaining the concept of “maximum potential” it gives parents language they can understand and use in evaluating proposals for educational programs for their children and in working with educational professionals. There is real value in keeping it as part of the parent’s “tool kit” as they seek continuous improvement for their child.
- Recommendation:** **The SEAC recommends retaining the language “maximum potential.”**

2.9 Three-Year Reevaluation/MET

- SEAC Position:** The SEAC overwhelmingly supports the proposed rule change regarding three-year evaluation. (Rule 340.1722d)
- Rationale:** The change in three-year evaluation will free up personnel from unnecessary evaluations, which will provide them with time to give additional support to programs/services. Eliminating unnecessary mandated evaluations will be a cost reduction to the districts.
- Recommendation:** **The SEAC recommends the rescinding of this rule to allow for the streamlining of the three-year reevaluation process with reservations regarding elimination of MET reports/documentation. (Rule 340.1722d)**

2.10 Definition of the MET/Parent Membership

SEAC Position: The SEAC overwhelmingly does not support the current rule excluding parents from the definition of required members of the MET.

Rationale: The federal regulations require that parents be part of the team that determines what type of data is needed and if enough data is available for the IEPT to determine if a child has a disability and whether the child needs special education and related services. The SEAC strongly supports the addition of parents to the MET.

Recommendation: **The SEAC overwhelmingly recommends that parents be members of the MET and part of any decisions or recommendations made by the MET.**

2.11 Teacher Consultant

SEAC Position: Teacher consultants in the state of Michigan perform a unique role. They help teachers teach and students learn. An overwhelming majority of the SEAC members expressed strong concerns regarding the elimination of teacher consultant as an approved position. (Rule 340.1790)

Rationale: Current teacher consultant requirements, along with the recommended practices and standards of professional organizations and research, should be maintained. Problems with combining classroom and consulting responsibilities together may result in less quality in services by removing safeguards for minimum levels of expertise of teacher consultants.

Recommendation: **The SEAC recommends retaining the current language describing the roles and qualification of teacher consultants.**

2.12 Qualifications of Instructional Aides

SEAC Position: The overwhelming majority of the SEAC does not support the elimination of instructional aides/qualifications. (Rule 340.1794)

- Rationale:** The removal of this position was based on the elimination of categorical programs. Eliminating this support for students and teachers would have a negative effect on the quality of services to children. It would also negatively impact the recruitment and retention of qualified teachers by not supplying adequate and appropriate support. The proposal would also create a potential for an increase in individual aides requested through the IEP team process.
- Recommendation:** **The SEAC recommends retaining current rule language defining the qualifications for instructional aides.**

2.13 Transition Services

- SEAC Position:** The overwhelming majority of the SEAC does not support the proposed rules regarding transition plans/services. (Rule 340.1721(a)(9))
- Rationale:** The SEAC members expressed concerns over the appropriate placement of students in career preparation classes which consider the student's interests and abilities. The proposed rules eliminate the definition of vocational evaluations and its components. It also eliminates the requirement for vocational evaluation prior to a vocational education, making appropriate placements difficult. IDEA does not define functional vocational evaluations. It was a concern that students would get their classes based on the availability of a "slot" rather than their interests and abilities. IDEA also does not provide guidelines regarding transition services. We also see the need to retain flexibility of terms while giving guidelines. The Michigan Rehabilitation Services (MRS) also needs the current vocational or psychological information to determine eligibility for services. Michigan's current rules assist with all of these factors.
- Recommendation:** **The SEAC recommends retaining the Michigan rules language for vocational evaluations and pre-vocational training.**

2.14 Work-Study Coordinator Position and Services

SEAC Position: The overwhelming majority of the SEAC does not support the elimination of the Work-Study Coordinator position. (Rule 340.1799d)

Rationale: In providing vocational training services for students, there are concerns about the risk management issues of work-study and the need for coordination of contracted services. Without this position, it is anticipated that children with the more severe disabilities will be placed in work-study with less support. The terms "supervise" and "coordinate" are not defined.

The Michigan Transition Services Associations and the Transition Services Project have been studying the appropriate best practices for vocational education in Michigan for the past six months. It is strongly urged that they be consulted in writing rules for these services.

Recommendation: **The SEAC recommends retaining the Work-Study Coordinator position as currently written. The SEAC recommends seeking information from the stakeholder groups such as Michigan Transition Services Association and Transition Services Project, thereby acknowledging their research and program development over the past six months.**

2.15 Rules Package - All In One Document

SEAC Position: An overwhelming majority of the SEAC supports the concept of including all rules, laws and supporting documentation needed for implementation of special education services in one document.

Rationale: There are a number of reasons for having one document:

- It protects everyone's due process rights
- The information is easily accessible to everyone in one document
- It supports rule compliance and intent and promotes efficiency for users and workgroups
- The use of public funds are appropriate
- All documents are needed to create and further the understanding of ISD plans

Recommendation: We ask the Superintendent to support and promote the creation of one comprehensive final document in loose leaf form (so that individual pages can be updated as needed). This document should include IDEA provisions, FERPA, federal regulations, portions of the Michigan School Code, portions of the State Aid Act and State application for federal funding with cross-references and organized by federal regulation (IDEA).

2.16 Time Lines

SEAC Position: Time lines need to be clearly and succinctly stated, especially when the implementation process involves more than a single step. Time lines need to be reasonable in length.

Rationale: These time lines also need to be reasonable in length. In the proposed rules, some of the time lines are missing, some are in conflict, and some do not provide sufficient time for parents/students and administrators to respond to the requirements.

Recommendation: **The SEAC recommends that the Superintendent support clear, complete, and reasonable time lines throughout the document.**

2.17 Measure of Time

SEAC Position: The SEAC recognizes that the current rules package uses three different measures of time when discussing time lines. This can and does lead to confusion.

Rationale: The three measures currently used are "business" day, "school" day, and "calendar" day. After thorough discussion, it was determined that the recommended measure should be "calendar" day.

Recommendation: **The SEAC recommends that one measure of time be used and that measure be "calendar" days.**

SECTION 3 – INDEX

SEAC Membership for 2000-01 and 2001-02